Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 3 Agenda
Health & Human Services

Chair, Senator Denise Ducheny

Senator George Runner
Senator Tom Torlakson

February 23, 2005
9:30 AM
Room 112

Informational Hearing:

Enhancing Federal Funds through

Increased Accountability and Action

A. Department of Social Services (DSS)

1. Loss of $1 billion in Food Stamps from lack of DSS action

B. Department of Child Support (DCS)

1. Billions in arrearages, and over $200 million in penalties due to automation delays by DCS
2. Child Support Automation System Penalty

C. The President's Federal Budget and Implications for Medi-Cal

- Presentation by the Legislative Analyst's Office

D. Department of Health Services—Medi-Cal Discussion

1. Federal Denial of State Plan Amendment Costs Counties $14.1 million
2. Ongoing Federal audits of Medi-Cal
3. Potential to enhance federal funds for family planning in managed care
4. Changing how ICF/DD facilities are billed

E. Department of Developmental Services (DDS)

1. Loss of $30 million from continued lag in CA Developmental Disabilities Information System (CADDIS)
2. Potential to extend Targeted Case Management Services

A. Department of Social Services (DSS)

1. Food Stamp Participation Rate

Issue: According to various measures used by the U.S. Department of Agriculture (USDA), California's Food Stamp utilization rates are among the lowest in the nation. These low rates may result in a significant amount of lost federal funds for the state's economy, as well as reduced nutrition and increased hunger for low-income families.

- California's low participation rate may also contribute to obesity if low-income families choose quantity over quality when purchasing food. Access to Food Stamps benefits can help low-income persons afford healthier food, especially fresh fruits and vegetables.

- Furthermore, as the Legislative Analyst's Office reported in 2004, the income effect associated with additional Food Stamp benefits results in additional General Fund sales tax revenues that often exceed the state administrative costs for eligibility determination.

- Advocates indicate that California's low Food Stamp participation rate is due to the state's failure to take advantage of federal waiver options and implement administrative changes that would make it easier for working families to apply for and maintain benefits.

- According to the USDA, California's Food Stamp Participant Access Rate in 2003 was 39 percent, the lowest in the nation. The state's Food Stamp Participation Rate in 2001 was 54 percent, compared to the national average of 60 percent.

- The department indicates that the methodology used by the USDA and Mathematica Policy Research to measure participation does not reflect the full impact of California's SSI "cash out" policy, and the number of non-citizens that are ineligible for Food Stamps. They also indicate that the Administration seeks out all available federal waivers.

- The department also indicates that California's low food stamp participation rate is generally due to the following factors: lack of knowledge on who is eligible for the program; frustration with the application process; the negative stigma associated with food stamps including poor service in grocery stores and treatment by program staff; fears that permanent legal residence could be impacted and that benefits would have to be paid back from future earnings.

- The Governor's Budget includes eligibility simplification proposals that are estimated to increase benefits by $15.7 million in 2005-06 ($32 million annually).

Background: The Department of Social Services provides statewide oversight and administration for the Food Stamps program, and counties make eligibility determinations. Families eligible for CalWORKs are automatically eligible for Food Stamp benefits and low-income working families and individuals not enrolled in CalWORKs are also eligible for Food Stamp benefits. Average monthly Food Stamp caseload in 2005-06 is estimated to be 2.1 million persons (835,000 households), a 4.9 percent increase over 2004-05. Approximately 59 percent of these households are not receiving cash assistance.
Food Stamp benefits are funded entirely by federal funds. California received approximately $2 billion in Food Stamp benefits in 2004. The federal government also funds 50 percent of the program's administrative costs. The remaining 50 percent is split between the state and counties at a ratio of 70 percent to 30 percent, respectively.

Questions:

- **1. California Food Policy Advocates (CFPA),** please describe the state's Food Stamp participant access rate, and how it is determined.
- **2. CFPA**, how does the state's Food Stamp participation rate affect low-income families?
- **3. CFPA**, how can the state increase Food Stamp participation?
- **4. CFPA**, how much in additional federal Food Stamp benefits could California potentially receive?
- **5. LAO**, please describe the fiscal effect of Food Stamps on the state's overall economy and General Fund revenue.
- **6. DSS**, please briefly describe the Governor's Budget proposal to simplify eligibility.
- **7. DSS,** what additional steps can the state take to increase its participation rate without a net increase in administrative costs or error rate?
- **8. DSS,** how has the state's Food Stamp participation rate changed since 2000, and what accounts for those changes?
- **9. DSS**, would the President's proposed federal budget limit the state's ability to increase Food Stamp participation or benefits?

B. Department of Child Support Services (DCSS)

1. Child Support Collection System

Issue: Despite efforts in recent years to improve California's child support system, collections from non-custodial parents have not significantly increased, the amount of arrearages owed to families remains high, and the cost-effectiveness of the state's collection system is still far below the national average. As a result, annual federal incentive funding for the state has declined by $24 million since 2000, and many children in the state are living in poverty due to unpaid child support.

- **Cost-Effectiveness:** California's child support system collected $2.12 in revenue for every $1.00 spent on collection efforts in federal fiscal year 2004. This is significantly lower than the national average of $4.33 in revenue per dollar spent. Among 54 states and territories, California ranks 49th in cost-effectiveness.

- **Federal Performance Measures:** In Federal Fiscal Year 2004 California scored lower than the national average in three out of five federal performance measures (including cost-effectiveness), and ranked 41st in overall performance.

- **Federal Incentive Funding:** Federal incentive funding has declined from $69.4 million in FFY 2000 (16 percent of total federal incentive funding) to $45.2 million in FFY 2004 (10 percent of total federal incentive funding).

- **Significant Arrears:** Approximately $19 billion in child support arrears is currently owed to families in the state. An analysis conducted by the Urban Institute found that approximately $4.8 billion of the state's arrears, $2.3 billion of which is owed to the state, is collectable. The Compromise of Arrears Program (COAP) was established in 2003-04 to offer reduced lump sum settlements to parents in exchange for their commitment to make ongoing payments. This program is also intended to reconnect families estranged due to unresolved child support payments. The Governor's budget estimates $33.3 million in arrears will be collected in 2005-06 due to the COAP.

- **Children Living in Poverty:** According to the US Census Bureau, over 1.7 million California children (18.6%) were living in poverty in 2003, up from 18.2 percent in 2002. (The US Department of Health and Human Services' poverty guidelines set the poverty level at $15,260 for a family of three in 2003.) California ranks 38th out of 50 states and the District of Columbia in child poverty, despite having the 11th highest median family income ($50,220 in 2003). Thirty-two percent of female-headed households in the state were living in poverty in 2003.

Background: The Department of Child Support Services (DCSS) administers the child support enforcement program operated by local child support agencies. The budget anticipates collections of $2.4 billion in the budget year, an increase of 1.7 percent over the current year. The department's overall budget expenditures are proposed to increase by $279.2 million, or 25.5 percent, to $1.4 billion. Most of the additional funding request is due to the child support automation system penalty (see issue 2 below).

Questions:

- **1. LAO,** please describe the state's scores on federal child support performance measures, how those scores compare to the national average, and how those scores are linked to federal incentive funding.
- **2. LAO**, please describe the child support collections trends since 1999-2000.
- **3. LAO**, please describe the poverty rate for children in the state, and how the child support system can affect poverty among children.
- **4. DCSS**, please explain why the state's cost-effectiveness ratio is significantly lower than the national average, and why it has decreased since FFY 2000.
- **5. DCSS**, please describe how the Administration intends to address the state's low cost-effectiveness ratio.
- **6. DCSS**, please briefly describe why COAP implementation has been delayed, and how it will be implemented in the future.

2. Child Support Automation System Penalty

Issue: Since 1997, California has been subject to substantial federal penalties due to the state's failure to establish a single statewide system for the collection of child support. The cumulative federal penalty from 1998 through 2006 is expected to be over $1.2 billion General Fund. The automation system currently under development is scheduled to be completed by 2008.

- **$218 Million Federal Penalty in Governor's Budget:** The budget includes $218 million General Fund in 2005-06 for the federal fiscal year (FFY) 2005 penalty. The 2004 Budget Act did not include funding for this penalty, as the payment was entirely deferred to state fiscal year 2005-06.

- **2006 Penalty Deferral Denied:** The federal government recently denied the Administration's request to defer the FFY 2006 penalty to 2006-07. As the Governor's Budget assumed that this penalty would be deferred to 2006-07, the federal denial results in additional General Fund costs of $167 million in 2005-06 above the Governor's Budget.

- **2005 Certification Opportunity Denied:** In 2004 the Administration indicated that federal certification of automation system compliance might be possible as early as September 2005. If approved this would have reduced the 2005-06 penalty by 90 percent. In October 2004 the federal government clarified that certification and penalty relief were dependent upon full operation of all components of the system. The Administration may still be pursuing a September 2006 early certification schedule, but it is unclear whether this October letter precludes any penalty relief before 2008.

- **Contract Amendments Not Performance-Based:** In November 2004 the Department of Finance submitted a request to the Legislature to increase project contract costs by $14 million in 2005-06 to implement the initial phase of the automation system more quickly. However, the November 2004 proposed contract amendments did not fully comply with current law, as they did not specify performance- or deliverable-based payment conditions. In response to concerns expressed by the Legislature in December 2004, the Administration has indicated it will amend the contract to include those payment conditions.

- **Cost Benefit Analysis Due March 1, 2005:** The Administration previously indicated that it would request early certification effective September 2006. However, in a June 2003 contract notification letter to the Legislature, the Department of Finance indicated that a condition of project approval would be "whether early federal project certification is a cost-beneficial strategy since it would cap federal financial participation." In light of the November 2004 Department of Finance request for additional contract funding, the Legislature has requested that the department submit a cost-benefit analysis of early certification by March 1, 2005.

Background: Since 1997, California has been subject to substantial federal penalties due to the state's failure to establish a single statewide system for the collection of child support. The penalties are a percentage of program administration costs, with an increasing percentage each year. California has reached the maximum percentage level at 30 percent of administrative costs.

Questions:

- **1.** **DCSS**, please describe how the Administration intends to address these penalties. Will the Administration request that further federal penalties be waived or deferred, and at what stage of project development?
- **2.** **DCSS,** when is the child support automation system expected to be completed?
- **3.** **DCSS,** when does the Administration expect that sufficient system development progress will have been made to avoid the federal penalty? In what year does the Administration expect to make the final federal penalty payment?
- **4.** **DCSS,** does the additional penalty payment in 2005-06 affect the state's cost-effectiveness and performance incentive payment?
- **5.** **LAO**, please briefly describe the department's progress on the child support automation system.

<u>C. The President's Federal Budget and Implications for Medi-Cal</u>

- **Presentation by Shawn Martin, Legislative Analyst's Office (LAO)**

<u>D. Department of Health Services (DHS)</u>

<u>1. Federal Denial of California's State Plan Amendment for Public Guardian and Probation Expenditures Means a Loss of $14.1 million</u>

<u>Issue and Background:</u> In a July 6, 2004 letter, the **federal CMS recently denied a request by California** to include reimbursement for certain health-related services provided by County probation officers and by County public guardians (i.e., **counties put up the *non-federal* match** to draw down the federal funds).

This denial has resulted in <u>a loss of $6.7 million (federal funds) in 21 counties for County probation services and $7.4 million in 25 counties for public guardian services</u>. As such, a total of $14.1 million is being lost for California counties at this time.

The DHS and Chief Probation Officers of California (CPOC) both disagree with the federal CMS denial and have submitted additional quantitative information to them. **However, no change from the original denial (in July 2004) has as yet been obtained. To date, the federal CMS has agreed to convene an administrative hearing for a re-consideration.**

Further, because these funds are so critical to the CPOC, they have retained the services of a law firm to work with the DHS Legal Office in presenting the appeal to the federal CMS.

The federal CMS has denied the state's request even though these services are eligible for Medicaid (Medi-Cal) reimbursement and were originally approved by the federal CMS back in 1995. Following the passage of enabling state legislation, the federal government approved California's request to authorize probation departments to claim for certain services, including case management, needs assessment, individual service planning, and periodic evaluation of clients.

As of 2002-03, **five probation departments were participating, including San Diego, Orange, Humboldt, Amador and Plumas. The July 2004 federal CMS letter stated that these five counties must be removed from participation beginning in 2005-06. (**The federal funds lost by these counties are included in the total figure provided above.)

The services in question are often referred to as "Targeted Case Management" (TCM) services because they provide assistance to "targeted" individuals who have the inability to handle personal, medical or other affairs. In the case of individuals coming into the adult probation setting, many fail to access the specialized treatment and counseling programs needed to deal with physical health, mental health and substance abuse related problems. As a result, they do not know how to or are not motivated to seek assistance from conventional programs until they must obtain help in an emergency room.

The impacted counties include the following:

> ***Probation services ($6.7 million in 21 counties)***: Alameda, Amador, Del Norte, Fresno, Glenn, Humboldt, Lassen, Los Angeles, Orange, Plumas, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Siskiyou, Sutter, Trinity, Tulare, and Ventura counties.
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> ***Public Guardian services ($7.4 million in 25 counties)***: Amador, Butte, Contra Costa, El Dorado, Fresno, Glenn, Imperial, Inyo, Lassen, Los Angeles, Monterey, Orange, Placer, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Solano, Stanislaus, Yolo, and Yuba counties.

Questions:

- **1.** DHS, Please provide a brief overview of the issue from your perspective.
- **2.** DHS, Why did it take so long for the federal CMS to respond to our original request?
- **3.** DHS, When will the federal CMS administrative hearing be convened?
- **4.** DHS, What are the counties suppose to do at this point?

2. Significant Federal Audits being conducted on California

Background—Is the Federal Government Targeting California? The federal Centers for Medicare and Medicaid (CMS) has just added 100 additional field auditors to review state Medicaid payments nationwide. **At least six of these new auditors will be assigned to California on a permanent basis.**

According to information obtained from the DHS, there are numerous federal audits being conducted on California's Medi-Cal Program. **Any of the audits could result in "audit findings" that would require California to payback federal reimbursements either from the state General Fund or County General Fund (depending upon the type of program in question). In fact, one example is discussed below.**

Recent Federal Audit Finding—General Fund Loss of $5.4 Million. The federal government is in the process of issuing an audit finding regarding the Department of Health Services' method for claiming enhanced federal payments for certain medical personnel, such as nurses, physicians and other clinicians.

The Administration, through the Department of Finance, has already requested a General Fund deficiency of $5.4 million due to this *initial* audit finding. Further, the DOF notes that this dollar amount is subject to change "due to the fact that the federal CMS may deny

more claims when the department is officially notified of the disallowance (final audit finding). <u>In fact, the federal CMS could ask for a disallowance of as much as $8.4 million, or $3 million more than what the DOF has presently identified</u> (December 30, 2004 letter from the DOF to the Joint Legislative Budget Committee**).**

It should also be noted that a <u>separate audit</u> is being conducted on this same topic regarding local assistance funding. The results of this audit will not be known for a few months.

<u>Questions:</u>

- **1. DHS,** How many audits is the federal government conducting regarding the state's Medi-Cal Program?
- **2. DHS,** Has the level of federal audit activities increased? Why do you think this has occurred?
- **3. DHS,** What is the Administration doing to prepare for more audits?
- **4. DHS,** With respect to the audit referenced above regarding state positions and the receipt of federal funds for certain clinical positions, are more General Fund moneys at risk?

<u>3. Receipt of Federal Funds for Family Planning Services in Managed Care</u>

<u>Issue and Background:</u> **The federal government reimburses <u>all states</u> with an enhanced federal match of 90 percent for family planning services (such as contraceptive services). This has been a long standing federal policy for over 20 years.** In the Medi-Cal fee-for-service environment, California captures this "enhanced federal rate".

However, California is presently <u>not capturing</u> this level of federal reimbursement in the Medi-Cal Managed Care environment, such as in the Two-Plan model, Geographic Managed Care model, and County Organized Health Systems (COHS) model. Instead, the DHS is only capturing a 50 percent federal match (i.e., the existing "standard" rate for California) for these family planning services.

In a December 2004 report—Revenue Maximization Strategies—commissioned by The California Endowment, **it was noted that the DHS could use an audit module that identifies all costs eligible for enhanced federal funding in capitation payment environments.**

Specifically, the report estimated that $20 to $25 million in federal funds could be captured using this approach. (This is the difference between the 50 percent federal match and the 90 percent federal match.)

Therefore, a General Fund savings of $20 million to $25 million could be achieved.

<u>Questions:</u>

- **1.** DHS, could additional federal funds be achieved as noted?
- **2.** DHS, what specifically would need to be done (audit module or what) to effectuate this?

<u>4. Potential to Modify Intermediate Care Facilities (ICF)/DD Billing</u>

<u>Issue and Background:</u> The **Department of Health Services (DHS) is the "sole" Medicaid (Medi-Cal) state agency**. This means that all Medi-Cal-related issues, including services provided to individuals with developmental disabilities, must flow through the DHS first, and then to the federal government.

According to a January 2003 report (PNP associates), funded by the Department of Developmental Services, **<u>tens of millions in General Fund savings</u> could be achieved if the DHS re-structured how it reimburses ICF-DD facilities.**

Specifically, the report noted that federal regulations allow a state to create a broader definition of ICF-DD services than those presently used by the DHS. Specifically, additional services and supports for individuals with developmental disabilities could be included in the definition, **such as Day Programs and transportation services to Day Programs.**

All existing Day Program services, as well as ICF-DD facility services would remain the same. <u>Only the funding mechanism would be changed</u>.

Under the state's existing system, Day Program services for individuals with developmental disabilities are funded through the Department of Developmental Services and purchased by the non-profit Regional Centers. Presently, about 50 percent of expenditures for these Day Program services are funded using 100 percent General Fund support. **If Day Program services were reimbursed under a more inclusive ICF-DD rate, a federal match could be received for most of this General Fund expenditure.**

ICF-DD facilities are funded through the Medi-Cal Program managed by the DHS. **Rates for ICF-DD facilities are calculated by the DHS based upon cost reporting data received by the facilities and a DHS-established methodology.**

The existing DHS cost methodology for ICF-DD facilities is presently defined in California's state Medi-Cal Plan. Therefore, any change to this rate would require a "State Plan Amendment" (SPA) and federal CMS approval.

It should be noted that <u>other states have been successful</u> in covering additional services and supports (i.e., broader definition of ICF-DD services) as noted.

***Legislative Analyst's Office (LAO)* Option:** In their "options" summary, the LAO concurred with the DDS sponsored report (PNA Associates), and thought that a total of $51.1 million in General Fund savings could be achieved by restructuring the ICF-DD facility rate as noted above.

Additional Background--What Are Intermediate Care-DD Facilities? Generally, ICF-DD facilities are facilities that provide 24-hour assistance, including nursing care, habilitation services, active treatment, and supervision in a structured setting. This type of licensed facility includes the state Developmental Centers, as well as smaller six-bed facilities in various regions of the state.

Questions:

- **1. LAO, Please describe the proposal and your past year savings estimate.**
- **2. DHS, What concerns if any do you have? What would be required to do this?**
- **3. DDS, What technical guidance would you suggest for crafting this potential change?**

E. Department of Developmental Services (DDS)

1. CA Developmental Disabilities Information System--$30 million Loss

Issue: Due to continued delays in implementation of the "California Developmental Disabilities Information System (CADDIS), **California will lose $30.3 million in federal funds over the next two-years ($10.4 million in 2004-05 and $19.9 million in 2005-06). The receipt of these federal funds could have been used to off-set General Fund support.**

Transportation services were added to the state's Home and Community-Based Waiver last year. Through this Waiver, the state is able to claim federal matching funds (50 percent level) for certain services provided to individuals with developmental disabilities. The loss in federal funds is because CADDIS is not operational. **Specifically, CADDIS was supposed to be fully functional to capture this transportation billing information. However since it is unable to, the state continues to fund transportation services at 100 percent General Fund support.**

Background—What is CADDIS? The California Developmental Disabilities Information System (CADDIS) **is an integrated case management and fiscal accounting system that is being implemented by the Regional Centers (RCs) at the direction of the DDS.** CADDIS will replace the current Uniform Fiscal System (UFS) and the San Diego Information System (SANDIS) case management system, both developed and implemented over 20 years ago.

CADDIS is needed in order to obtain more accurate and necessary consumer data regarding needs and services, and in order to enhance the receipt of federal funds by meeting federal reporting requirements.

Initiated in July 2000, CADDIS has encountered several system delays. In the Budget Act of 2003, it was assumed that CADDIS would be operational by June 2004. This date was pushed back to December 2004 through the Budget Act of 2004. **Now the DDS contends that implementation <u>will not occur until May 2006.</u>**

As noted in the table below, system design and implementation costs are now at a total of $14.6 million (General Fund). Therefore the system is becoming more costly while delays in implementation continue.

Table: Summary of CADDIS Expenditures

Fiscal Year	General Fund
2000-01	$707,000
2001-02	$5,306,000
2002-03	$401,000
2003-04	NA
2004-05	$6,439,000
2005-06	$1,730,000
Total Funding	**$14,583,000**

<u>Background—Steps DDS is Taking:</u> In a recent discussion with the DDS, they note that the vendor—Deloitte—has replaced its project management team and is in the process of expediting its work. The DDS is also in negotiations with the DOF (information technology section) and Deloitte regarding what actions can be taken to remedy the delays and improve the overall project.

<u>Questions:</u>

- **1. DDS, Specifically, what is being done to expedite the project?**
- **2. DDS, Is the May 2006 still a realistic deadline? Could CADDIS be implemented sooner?**
- **3. DDS, Is it likely that additional project expenditures will need to be incurred for CADDIS? If so, why?**
- **4. DDS, Is there any other way that a federal match can be obtained for the transportation services, since these have been approved for reimbursement?**

<u>2. Targeted Case Management Services</u>

<u>Issue:</u> The state could amend its Medi-Cal Program to provide Targeted Case Management Services (TCM) to individuals with developmental disabilities **who are transitioning from ICF/DD facilities (such as a Developmental Center) for up to the last 180 consecutive days of a Medi-Cal person's institutional stay.**

Presently, the state is only capturing up to 30 days.

<u>Background—What is TCM?</u> Persons with developmental disabilities, along with certain other client groups, are identified in California's Medi-Cal State Plan as being a **"targeted" group" to receive assistance in their efforts to gain access to needed medical, social, educational and other services provided by Medi-Cal. This enables the state to draw a federal match for these services, versus solely using General Fund support.**

Targeted Case Management Services (TCM) are provided by Regional Centers (RC). Functions to be claimed under TCM include: (1) consumer assessment, (2) development of a specific care plan, (3) referral and related activities to assist the consumer to obtain needed services, and (4) monitoring and follow-up. **Therefore, most of an RC's case manager's time spent on a Medi-Cal eligible person in the RC system can be reimbursed under TCM.** According to the DDS, there are about 128,000 Medi-Cal eligible persons in the RC system (out of about 211,000 individuals).

__Background—Current TCM Expenditures:__ For 2005-06, **the budget proposes expenditures of $247.8 million ($123.9 million General Fund) for RC "Operations**" to provide TCM services.

It should be noted that this funding reflects a current-year increase of $19.5 million (federal funds) obtained by the DDS, with assistance from the DHS, in working with the federal CMS. **Specifically, the DDS was able to obtain approval to revise their methodology for calculating TCM billing rates (i.e., brought them up-to-date).**

__Proposal to Capture More TCM Federal Funds:__ In a December 2004 independent analysis conducted by Health Management Associates, as commissioned by the California Endowment, it was noted that the DDS could be capturing increased federal funds for TCM. No suggested federal dollar amount was specified.

As such, the DDS commenced with drafting a State Plan Amendment to allow for the provision of TCM services for up to 180 consecutive days prior to discharge from an institution (ICF/DD facility). On December 30, 2004, the DDS provided the draft State Plan Amendment to the Department of Health Services (as the sole Medicaid state agency) to review and begin discussions with the federal CMS.

It should be noted that the proposed change is very straightforward (i.e., 30 days to 180 days) and would not require any substantive changes on the part of the DDS.
It is estimated that **about $500,000 (General Fund)** could be saved from this action.

With the proposed closure of Agnews Developmental Center by June 30, 2007, implementation of this TCM change would make good policy sense to ensure pre-planning activities and to draw federal funds for them.

__Questions:__

- **1. DHS,** has the State Plane Amendment been submitted to the federal CMS? If not, when will it be submitted?
- **2. DDS,** what is required for implementation?

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